

DRAFT

providing billing services for non-sent paid calls⁴ spawned the alternative operator services ("AOS" or "OSP")⁵ industry. With the development of the OSP industry, the industry has expanded its market from public payphones into the hospitality market. It is precisely this type of calling services and a certain segment of firms which produce them that have generated much controversy.

Due to a rather strange regulatory structure, a perverse form of competition has emerged. The operator services industry has many players that have grown quickly into horizontally and vertically integrated firms. However, the industry has taken advantage of its unique market structure to impose some significant forms of abuse upon the ultimate telephone consumer. Because of these abuses, various types of regulations have been enacted across the country, from a *laissez-faire* approach to traditional utility regulation. Despite the various approaches taken by regulators, abuses frequently persist. Journalists periodically produce investigative reports detailing the industry abuses suffered by the public.

The Clinton administration's push toward allowing telecommunications markets to function free from unnecessary regulatory impediments magnifies the need for this paper. Although economists rarely agree totally on anything, it is safe to say that in a capitalistic society, truly competitive markets function best without artificial regulatory or legal constraints. However, it is also true that no markets follow the rules of an economist's world of perfect competition and may require some intervention up to and including utility type regulation. The OSP market is an example of a market that cannot function properly without regulatory oversight for a variety of reasons⁶.

In this paper, the OSP market structure is discussed. Also, this industry is compared to textbook models of competition and monopoly. It will be shown that the OSP industry embodies an interesting discontinuous hybrid. This hybrid market of highly competitive layers of both extreme market structures and its monopolistic control over the ultimate consumer which suggest that traditional utility regulation well serves the public interest.

OSPs: A Highly Competitive Industry

The OSP industry consists of many participants, each providing relatively homogeneous products. The barriers to entry are quite manageable. Each OSP competes such that its services

⁴ Non-sent paid calls consist of all calls paid by a method other than paying at the originating station, *e.g.*, credit card, collect, or third number billed calls.

⁵ The term "alternative" was used primarily in reference to these new entrants being an alternative to the traditional LEC or IXC operator. Recently, the industry has attempted to change its "alternative" designation to one of ubiquity in being referred to simply as Operator Service Providers (OSPs).

⁶ All markets are subject to one form or another of intervention, ranging from general statutory guidelines to direct oversight (such as public utility regulation) to outright government ownership. Therefore, utility regulation is by no means an extreme measure, but is somewhere near the middle of the spectrum.

and prices for those services are known by all potential purchasers⁷. Each provider holds itself out to provide the best operator assistance services at the best value to the purchaser. In some respects, the OSP industry functions like the textbook example of a highly competitive market. The OSP industry competes for IPP and hospitality industry business. OSPs do this in a number of ways. First, they compete in the price, or commission payment offered to site owners. Second, they compete through product innovation such as the introduction of better cost controls like fraud protection; provision of more extensive product lines such as foreign language translation, directory assistance, or message service; faster payment of commissions to purchasers; expansion of service territories; development of alternative bundled and unbundled pricing mechanisms; and the development of better customer tracking and billing systems.

All of the competitive characteristics lead one to believe that the OSP industry is one that operates in a highly competitive fashion. One might compare the industry to a competitive industry like the retail restaurant business. If the restaurant does not continue to provide the food and service demanded of the consuming public, the restaurant will go out of business. The same holds true for the OSP. If the OSP does not provide the best, most up-to-date service to its customers, it soon will be history.

OSP: A Monopoly Industry

The flip side of the coin in the OSP industry relates to the end user, the person who uses that pay phone or the phone in a lodging establishment. It is in this part of the market, with all of its undesirable results but none of its advantages, that a virtual monopoly exists. A monopoly exists when there is one, and only one, seller in a well-defined market and there are no effective substitutes. When one needs to use a public phone, it is highly unlikely that there will be a bank of competitive phones at a single location. In fact, most public phones in a given area are identical phones, linked to the same provider. Therefore, when one is forced to use a public phone, that consumer has no choice but to use the phone that is available.

Ten years ago, virtually all pay phones were standard, heavy duty, Bell System payphones. In those days, a consumer knew that when she/he used that payphone, it would be a telephone company phone and the prices would be reasonable since the service was regulated. With the introduction of COCOTs, and the next almost ten years of requirements placed upon COCOT owners⁸, it has become apparent that a certain body of consumers have become astute in using these phones that are associated with AOSs. These astute consumers have learned to "dial around" the presubscribed OSP to their carrier of choice. When they use the only

⁷ The purchasers of operator services in this competitive context refers to the industries that need operator services in conjunction with their product, *e.g.*, the IPPs or the hospitality industries.

⁸ The current FCC regulations require that COCOTs allow users to utilize 10XXX, 950, and 800 Service alternative access to carriers other than the carrier (or OSP) subscribed to by the COCOT owner. The FCC also requires COCOT owners to post certain information at the phone, other requirements for double branding (stating the name of the carrier name twice before connecting the call), rates upon request, emergency number access, *etc.*

available public phone, they "dial around" the OSP of the COCOT and use their own carrier of choice⁹. However, the remainder of the public that is either ignorant of the options available to them or is otherwise not predisposed to learn complex dialing patterns for the occasional use of a public phone will be required to use the presubscribed services of the COCOT. To this large body of consumers, the public phone becomes a monopoly service. There is only one seller in the market and there are no effective substitutes. This is a captive consumer market.

OSPs: A Hybrid Competitive/Monopoly Paradigm

This industry market structure cannot be described by either of the previous market structures in isolation. They must be taken together: a highly competitive industry vying for the right to serve a monopoly market. In Figure 1, the market is shown with the SITE at the middle of the chart. In this case, IPPs are used to show the competitive forces at work to gain the sole right to place a phone at the SITE. In order to win this right, the IPP owner must provide an incentive to the SITE owner. This usually comes in the form of monetary returns for the right to place the phone at the SITE. At the same time, OSPs are competing for the right to be the presubscribed carrier of the IPP owner¹⁰. Once the agreements between the IPP and the SITE owner

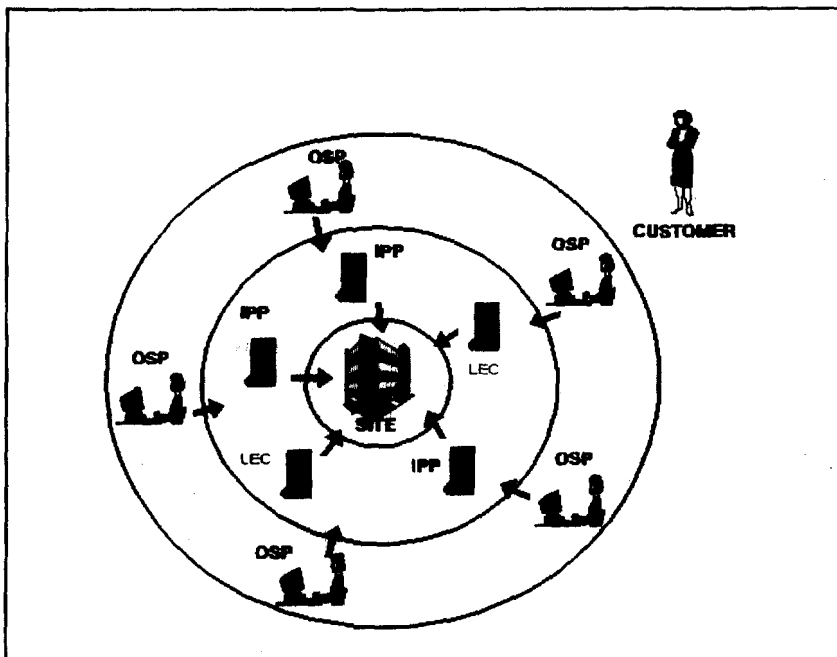


Figure 1. OSP/IPP INDUSTRY COMPETITIVE MODEL

and between the OSP and the IPP are formulated, the IPP and the OSP essentially now have monopoly control over most customers who use the payphone. As depicted in Figure 1, the customer is completely outside the competitive loop.

⁹ Although this is the situation depicted when a consumer uses a public phone that is in compliance with FCC rules, it is not always the case. Many public phones physically block the user from dialing around. It is likely because of this blocking problem that major carriers have developed access numbers through 800 Service to access the operator services of the major carrier.

¹⁰ When an IPP presubscribes to a particular OSP, that OSP and its associated long distance provider (which could be itself) will be the OSP that a customer reaches when using normal 0+ dialing. In order to use another OSP, such as MCI or AT&T, the customer must "dial around" using 10XXX, 950, or 800 Service access.

In order to understand the market structure more thoroughly, it is imperative that one also realize that OSPs do not compete with each other using lower prices as a competitive factor. In fact, the opposite is true. In this market, the OSP actually does the rating and billing for all non-sent paid calls originating from the payphone. The IPP gets a portion or a percentage of the total amount that is billed to the customer. Therefore, the IPP can ask the OSP to charge as high a rate as it believes it can extract from the customer and the OSP and the IPP will share in the revenues received from the customer¹¹. Therefore, the OSP charges rates that resemble profit maximization under standard economic theory for a monopoly¹².

The temporal and spatial discontinuity between the customer's transaction and the ultimate monetary transaction is a critical factor in the pricing decision of the OSP in this unique market. A customer makes a non-sent paid phone call (*e.g.*, a credit card or collect call) from an IPP or a hotel using the presubscribed OSP. Either from ignorance or other reasons, the customer does not inquire about rates at the time of the call. A month or two later the customer receives a bill through his or her local exchange provider. The transaction was made a long time in the past. The customer receives the bill from the trusted local exchange provider. Therefore, there is a temporal discontinuity in that a significant amount of time has elapsed since the transaction was made. Also, there is a spatial discontinuity in that the customer receives the bill from an unrelated entity (the LEC), with little or no ability to determine who is actually responsible for the billing of a specific rate¹³. Because of these discontinuities in time and space, the uninformed consumer makes a decision to place a phone call without the benefit of relevant knowledge about price and when that price is revealed at bill time, the consumer has less of a chance of contesting the price charged. In most, if not all other economic transactions, both as a matter of custom or law, price revelation up front is normal, and does not require unusual effort on the part of consumers. However, in this instance a consumer must take specific extra steps to obtain a price quote¹⁴.

Benefits and Detriments of Competition in the OSP Industry

¹¹ See an article entitled "Regulating a Reversely-Competitive Telephone Market," by Mark C. Beyer, Public Utilities Fortnightly, June 7, 1990, p. 33.

¹² Normally, under monopoly pricing theory, a firm will price its monopoly services at a price on the demand curve wherein the quantity demanded is where marginal cost equals marginal revenue. This is the so-called profit maximization rule. Under these conditions, prices are much higher than in a competitive market, while quantity sold is lower than that amount sold in a competitive market.

¹³ Although many jurisdictions require the naming of responsible OSPs on billing submitted by the LEC to the customer, it is a common practice by billing agents or clearinghouses that provide billing information to the LECs to disguise the ultimately responsible OSP.

¹⁴ This process is the logical equivalent of a "positive check-off" system whereby consumers have to take specific steps to avoid a sale. Such marketing practices generally are illegal. Similarly, there are state and federal statutes which require routine disclosure of costs as a matter of course, up front, prior to consummation of a sale. This is true for relatively complex transactions such as consumer and mortgage loans.

In any industry, competition can produce both beneficial and detrimental results. In the OSP industry, the competition has produced some desirable outcomes: (1) new technologies; (2) better fraud control; and (3) a wider range of services. It has also produced some detrimental outcomes: (1) high prices; and (2) consumer confusion.

As alternative providers entered the market, OSP technology changed significantly. If the old "Bell System" was still intact, the technology used for the provision of operator services would be a mixture of first and second generation technology¹⁵. Under that scenario, we would not be reaping the benefits of advanced digital switching systems, microprocessor workstation technology, or rapid software enhancement. Today, the OSP industry is utilizing the available technology to its fullest extent by maintaining real time consistency with the available technology. Many would argue that the LECs and major IXC's have been forced to compete with the alternative OSPs by keeping technologically current.

One example of OSP technology innovations is in the area of fraud control. Sophisticated perpetrators of fraud have penetrated the telephone credit card verification and billing systems resulting in significant revenue loss to the OSPs. Some of the more innovative OSPs have developed extremely complex software enhancements to their data systems to reduce the amount of fraud. The OSPs continuously strive to stay one step ahead of these hackers. Thus, the major IXC's also have been forced to improve their fraud control measures.

The OSPs have been able to introduce a variety of new services in addition to the provision of basic operator services. The industry players are seeking ways to differentiate themselves from other alternative providers and to differentiate themselves from the operator services of the LEC and the major IXC's. The OSPs are offering foreign language translation in multiple languages, extensive directory assistance services, and a variety of other options to the IPPs and the lodging industry¹⁶.

Despite certain beneficial effects of improved technological capability, high prices to the ultimate consumer have been a problem with this industry. Because of the peculiar mix between highly competitive markets and monopoly markets, consumers have been subject to abusive pricing by the industry. This record of abuse seems to be confined to OSPs that provide service to the IPP industry and to the lodging industry. Records in virtually all jurisdictions show examples of such abusive behavior¹⁷. Many consumers utilize a phone in a public location and expect that the rates charged will be within reason. However, they are surprised when they

¹⁵ The reference to a mixture of first and second generation operator services technology connotes a mixture of the old TSPS analog technology and some of the updated versions, such as OSPS.

¹⁶ The LECs and the IXC's also offer these services in various forms. The OSPs have been able to push the LECs and IXC's into staying abreast with their advancements.

¹⁷ In Colorado, there are documented examples of excessively high rates, e.g., \$7 or more for a one minute intrastate long distance call, or \$5 or more for a one minute local call made using an LEC credit card, both using an LEC credit card over an alternative OSP's service.

receive the bill a few weeks or months later.

Customer confusion and abuse have resulted from the introduction of competition into the payphone and operator services markets. Most consumers are not aware of the extensive nature of the industry. Therefore, when they use a public phone, the limited, often inaccurate information displayed pursuant to FCC and/or state requirements does not help the consuming public, but confuses them. There are so many providers of services that the consumer has little chance of recognizing the business integrity of any particular provider. Also, since the uninformed consumer¹⁸ still views this industry as a homogeneous, monopoly industry, it is highly unlikely that such consumer would be able to enjoy the benefits of competition in the industry.

Conclusions and Recommendations

The introduction of competition into payphones and operator services resulted in the creation of a number of OSPs. These OSPs have conducted their business in a manner which is simultaneously beneficial and detrimental to the public interest. The net societal benefit of regulation is the ultimate concern herein. Although this paper has presented many societal benefits of the introduction of competition in IPPs and OSPs, those benefits have been funded in large part by overcharging to consumers. The development of new technologies and innovations requires substantial capital investment. That investment can be made when an industry has the availability of a captive customer revenues. In the eyes of the consuming public, the exorbitant pricing practices of the industry have brought about extreme dissatisfaction. This consumer dissatisfaction has in turn brought about such events as FCC/State unblocking requirements, growing consumer avoidance of OSPs by using major IXCs¹⁹, increased state and federal regulation, and consideration of additional issues such as Billed Party Preference²⁰. It has been demonstrated that the lack of regulation produces little

¹⁸ One of the necessary conditions for competition to function properly is that consumers be well informed at minimal cost to them for obtaining the information. In the jargon of economics, "search costs" are low. Further, the costs of such transactions must be minimal, relative to the value of the transaction. One must experience the time and effort required to obtain a price quote, *ex ante*, or to obtain information from the IPP, OSP, or billing agent, to understand that in most cases, the search and transaction costs not only are large relative to transaction value, but exceed it. Last, consider that these search and transaction costs are minimized through regulation of these services because widespread assurance of just and reasonable rates drastically reduces or eliminates these costs, to the betterment of society.

¹⁹ The major methods of avoiding the OSPs at a public phone are 10XXX access, 950 access, 800 Service access (such as 1-800-COLLECT, 1-800-OPERATOR, and 1-800-CALLATT). The industry commonly refers to this as "dial around." The IPP industry has actively sought reimbursement from the consumer (via the IXCs) for use of their phones. This reimbursement is called "dial around compensation."

²⁰ Billed Party Preference is a proposal being considered by the FCC that would require that all public phones be capable of routing a consumer's calls to the carrier of choice. Suppose a consumer uses a public phone and desires that his or her call be routed through SPRINT, then the provider would have to comply without the consumer being required to remember an access code. The FCC is currently studying the issue; however, the OSP

visible benefit to the consumer and inordinately high prices. It seems that some form of regulation of the OSP industry is necessary. Although not as obvious, it would also follow that certain forms of regulation are necessary for the IPP/lodging industries.

The purpose of a regulatory scheme in any industry is to provide regulations wherein the free, competitive market cannot. In the case of the OSP industry, it is imperative that certain regulations be in place. Those regulations should include at a minimum:

- Price Caps for the entire industry based upon dominant carrier rates
- or - other standards for justification of rates, *e.g.*, cost of service data.
- Standards for service quality, *e.g.*, double branding²¹, access to emergency services, rate quoting without charge, no charge for unanswered calls.
- Standards for billing, *e.g.*, appearance of the OSP name on the end user's bill, separate bill charges for any premise imposed fees or premise surcharges.

In the case of regulating the IPP/lodging industries, regulation should include at a minimum:

- Standards of compliance for posting on all public phones to include the OSP and the IPP/lodging entity responsible for service, dialing instructions, rates and charges for local calls and directory assistance, complaint and out-of-service contacts.
- Requirements prohibiting any form of blocking of access to IXC's.

Another possible requirement might include efficient, automatic rate quoting to the consumer prior to placing a call and perhaps a cumulative total during the call. This cumulative rate quoting might be disabled by a positive response from the consumer. Although this capability is not currently available, it is technologically possible and might be a suitable alternative to extensive posting requirements and complex dialing procedures.

industry is publicly in opposition to it.

²¹ Double branding is a requirement for the OSP to identify itself once at the beginning of the call and again prior to the customer being connected to the called party. Double branding is an FCC requirement and is also a requirement in many state jurisdictions.



R. THOMAS BREEDLOVE

VANCE COUNTY JAIL
516 Breckenridge Street
Henderson, North Carolina 27536
(919) 438-3923

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July 25, 1994

The Honorable Reed E. Hundt, Chairman
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

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AUG 12 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dear Chairman Hundt:

We are opposed to the application of Billed Party Preference (BPP)
at inmate facilities.

We at the Vance County Jail are concerned about the proposed BPP for
long distance telephone calls. There are three (3) particular areas
that will be affected to our detriment, namely:

1. We will lose blocking control of our inmate phone calls.
2. We will lose a revenue stream and the inmate family phone
cost could go up.
3. The potential for fraud will creep back into the system.

Along with these major concerns, we also see a problem with who is
going to pay for all this?

We eagerly oppose the BPP and encourage the FCC to do the same.

Thank you,

A handwritten signature in cursive script, appearing to read "Charles S. Hawley".

Charles S. Hawley
Jail Administrator
Vance County Jail
516 Breckenridge Street
Henderson, NC 27536

cc: The Honorable James H. Quello
The Honorable Rachelle B. Chong
The Honorable Andrew C. Barrett

The Honorable Susan Ness
Senator Jessie Helms
Senator Lauch Faircloth

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

July 20, 1994

The Honorable Reed Hundt, Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington, D. C. 20554

Re: CC Docket #92-77

Dear Chairman Hundt:

I am writing to voice my concerns about the proposed Billed Party Preference regulation. The correctional facility inmate phone industry would be severely jeopardized by BPP, affecting inmates, their families and the criminal justice system as a whole. *For this reason, we are asking that inmate calls be exempt from the proposed BPP regulation.*

Over the past ten years, administrators of correctional facilities have been able to put into place a very effective system for allowing inmate phone calls. The right to choose our phone service provider has been key to our success. This service has always been delivered to us at very reasonable rates. What's more, inmate phone commissions have been a significant source of revenue for our facility and have helped us improve it dramatically. *We use this revenue to fund various programs including: law enforcement education; inmate health, education and recreation; jail personnel safety; drug prevention and other community programs; family visitation etc.*

Here are a few of my biggest concerns about Billed Party Preference:

- It strips correctional facility administrators of the right to choose inmate phone providers.
- Technology for BPP would reportedly cost upwards of \$1.5 billion, an expense that would have to be passed along to the consumer.
- Without the authority to process calls, inmate phone providers would no longer have the revenue to provide the sophisticated phone systems used in prisons. The end result: fewer phones with fewer security features. Facilities would have to revert to the old ways of supervising each and every inmate call.
- The average length of stay in jail would increase because inmates would not have the phone privileges required to make arrangements for obtaining bond. *This costs everyone!*
- Under BPP, correctional facilities would no longer have control over inmate calls, which means no call tracking or blocking. Inmates could conceivably harass judges, witnesses, jury members or even the victims of their crimes.
- Without call control, facilities would be unable to control fraud problems currently handled by inmate phone providers.

For the above reasons, and countless others, we believe that THE COSTS OF BILLED PARTY PREFERENCE FOR INMATE CALLS FAR OUTWEIGH THE BENEFITS. If BPP does become regulation, we urge you to make inmate calls exempt. Thank you for your consideration of my views.

Sincerely,

Patricia Conlin

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Sheriff Pat Conlin
Green County Sheriff's Department
2827 6th Street, P.O. Box 473
Monroe, WI 53566

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Sincerely,


SHERIDAN COUNTY SHERIFF

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*Daniel Stow
Sheriff Clay 10*

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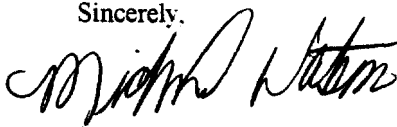
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

July 20, 1994

The Honorable Reed Hundt, Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington, D. C. 20554

Re: CC Docket #92-77

Dear Chairman Hundt:

I am writing to voice my concerns about the proposed Billed Party Preference regulation. The correctional facility inmate phone industry would be severely jeopardized by BPP, affecting inmates, their families and the criminal justice system as a whole. *For this reason, we are asking that inmate calls be exempt from the proposed BPP regulation.*

Over the past ten years, administrators of correctional facilities have been able to put into place a very effective system for allowing inmate phone calls. The right to choose our phone service provider has been key to our success. This service has always been delivered to us at very reasonable rates. What's more, inmate phone commissions have been a significant source of revenue for our facility and have helped us improve it dramatically. *We use this revenue to fund various programs including: law enforcement education; inmate health, education and recreation; jail personnel safety; drug prevention and other community programs; family visitation etc.*

Here are a few of my biggest concerns about Billed Party Preference:

- It strips correctional facility administrators of the right to choose inmate phone providers.
- Technology for BPP would reportedly cost upwards of \$1.5 billion, an expense that would have to be passed along to the consumer.
- Without the authority to process calls, inmate phone providers would no longer have the revenue to provide the sophisticated phone systems used in prisons. The end result: fewer phones with fewer security features. Facilities would have to revert to the old ways of supervising each and every inmate call.
- The average length of stay in jail would increase because inmates would not have the phone privileges required to make arrangements for obtaining bond. *This costs everyone!*
- Under BPP, correctional facilities would no longer have control over inmate calls, which means no call tracking or blocking. Inmates could conceivably harass judges, witnesses, jury members or even the victims of their crimes.
- Without call control, facilities would be unable to control fraud problems currently handled by inmate phone providers.

For the above reasons, and countless others, we believe that THE COSTS OF BILLED PARTY PREFERENCE FOR INMATE CALLS FAR OUTWEIGH THE BENEFITS. If BPP does become regulation, we urge you to make inmate calls exempt. Thank you for your consideration of my views.

Sincerely,

Robt G. Newman
Sheriff Nevada County

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Phone: 314/224-3319
314/224-3219
Fax: 314/224-3904



Wayne County Courthouse
Greenville, Missouri
63944

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

July 20, 1994

The Honorable Reed Hundt, Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington, D. C. 20554

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Sincerely,

Nathan Hale
Sheriff - Wayne County, Mo.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

July 21, 1994

The Honorable Reed E. Hunt
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

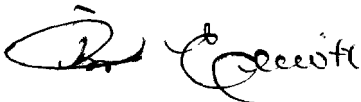
Dear Chairman Hunt:

As the Sheriff of Dunklin County, Missouri, I am writing to you regarding the FCC proposal for Billed Party Preference. We are currently using an Inmate Phone Service which has been very helpful in managing our inmate facility, and we would not want to lose the benefits we receive from its services.

This service was most advantageous during a recent prisoner escape. Through the records maintained by AmeriTel, we were able to determine a potential destination, possible companions, and other related information. This helped result in the prisoner's capture within a brief time. I believe that the Billed Party Preference proposal will eliminate this and other valuable benefits we now obtain from our ability to select our phone provider..

I feel that this added information available for law enforcement contributes greatly to the safety of the general public. The current practice of billing the originating telephone for a call should not be changed in the case of calls from inmate facilities. Please give this proposal a vote to exempt inmate facilities from Billed Party Preference regulations.

Sincerely yours,



Jim Elliott
Sheriff

zzb

cc: Senator John Danforth
Senator Christopher Bond

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Daniel A. Levens
Sheriff



Office (316) 384-5616
FAX (316) 384-5904

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P.O. Box 764 / 103 West Avenue C / Syracuse, Kansas 67878

COMMISSION
OFFICE OF THE SECRETARY

July 20, 1994

The Honorable Reed Hundt, Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington, D. C. 20554

Re: CC Docket #92-77

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Sincerely,

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**COUNTY JUDGE
of
TARRANT COUNTY**

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

TOM VANDERGRIFF
County Judge
(817) 884-1441
FAX (817) 884-2793

County Administration Building
100 East Weatherford Street
Fort Worth, Texas 76196-0101

July 26, 1994

**The Honorable Reed E. Hundt
Chairman, Federal Communications
Commission
1919 M Street, N.W.
Washington, D. C. 10554**

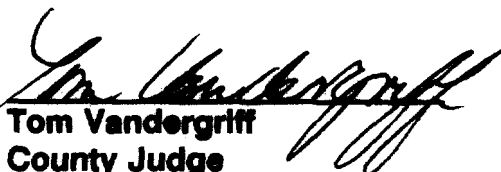
Re: Billed Party Preference; CC Docket No. 92-77

Dear Chairman Hundt:

On behalf of the entire Tarrant County Commissioners Court, I am writing to express our unanimous opposition to the proposal to implement Bill Party Preference and to request that the Federal Communications Commission defeat the measure.

The attached resolution clearly outlines the reasons why Tarrant County opposes this proposal. Meeting the telephone service needs of jail inmates is vastly different from addressing telephone service needs for the general public. As a result, it is imperative that inmate telephone service be exempt from BPP.

Sincerely,


Tom Vandergriff
County Judge

Enclosure:
Resolution

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

TARRANT COUNTY

RESOLUTION

REQUESTING THE FEDERAL COMMUNICATIONS COMMISSION TO DEFEAT THE PROPOSAL TO IMPLEMENT BILLED PARTY PREFERENCE (BPP)

WHEREAS, Texas counties are required by the Texas Jail Standards Commission to provide inmates access to legal counsel and/or family by phone, whether local or long-distance; and

WHEREAS, the Commissioners Court is responsible for complying with these requirements; and

WHEREAS, the basic reason for Billed Party Preference (BPP) is to insure users of public communications open access to their long distance carrier of choice, and the by-pass regulations in place today already allow for the public's open access to carrier of choice; and

WHEREAS, by not allowing payphone owners and location clients the right to choose the primary long distance carrier on their equipment, the owner and/or location client loses the ability to negotiate fair commissions from their selected carrier; and

WHEREAS, the net result of this situation is that location owners and clients lose their rights to fair commissions on revenue generated from their properties; and

WHEREAS, meeting the telephone service needs of jail inmates is vastly different from general public communication users and, therefore, inmate telephone service should be exempt from BPP; and

WHEREAS, correctional institutions are allowed to 1) cut off any collect call to a location where third party or call conferencing is detected and 2) determine whether or not the institution will even allow the inmate to make calls;

NOW, THEREFORE, BE IT RESOLVED, that we, the Commissioners Court of Tarrant County, do hereby strongly oppose the proposal to implement Bill Party Preference and request the Federal Communications Commission to defeat the proposal.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the great seal of Tarrant County to be affixed this 26th day of July, A.D. 1994.

Tom Vandenberg
County Judge

Dionne Bageby
Commissioner, Precinct 1

Bob Hampton
Commissioner, Precinct 2

Matti VanHavenwaay
Commissioner, Precinct 2

J. D. Johnson
Commissioner, Precinct 4



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BOARD OF PRISON COMMISSIONERS

BOB MILLER
GOVERNOR

FRANKIE SUE DEL PAPA
ATTORNEY GENERAL

CHERYL LAU
SECRETARY OF STATE

STATE OF NEVADA
DEPARTMENT OF PRISONS
ADMINISTRATIVE OFFICES

RON ANGELONE
DIRECTOR

KARL L. SANNICKS
ASSISTANT DIRECTOR, OPERATIONS

GEORGE M. WEEKS III
ASSISTANT DIRECTOR, SUPPORT SERVICES

HOWARD L. SKOLNIK
ASSISTANT DIRECTOR, PRISON INDUSTRIES

July 25, 1994

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AUG 12 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

The Honorable Reed E. Hundt
Federal Communications Commission
1919 M. Street, N.W.
Washington, D.C. 20554

Dear Chairman Hundt:

In reference to Billed Party Preference (BPP), CC Docket #92-77, the Nevada Department of Prisons is opposed to BPP as it relates to the department's correctional institutions and facilities. Prisons, jails and custody correctional facilities should be exempted from BPP as Billed Party Preference vastly impedes the department's ability to control inmate calling. Essential inmate management functions such as call blocking, call time limits, time of day call restrictions, PIN digit assignments and fraud prevention would be lost to the department due to the prohibitive expense of this sophisticated electronic equipment. Budget authority from general fund monies would not allow the necessary equipment otherwise provided by telephone service contractors and inmate call monitoring and control functions would have to be performed by uniformed custody staff, effectively removing them from other inmate supervision duties. Under BPP the department's revenue sharing agreement would be sacrificed. Currently, revenue is placed in the Inmate Welfare Fund and provides amenities that would not otherwise be funded from state general funds. Inmate telephone commissions are used to purchase sports and recreation equipment, provide cable and satellite television reception in rural prison locations, purchase and update law libraries and supplies and fund many activities that benefit all inmates in the Nevada system. BPP would greatly reduce these funds and result in impaired inmate morale and rehabilitation opportunities.

The Nevada Department of Prisons is currently issuing a Request For Proposal (RFP) in an effort to enter into its most advantageous service and revenue sharing arrangement. One condition of the RFP to be imposed upon the successful provider requires billing rates to called parties to be based on the Nevada Public Service Commission and the FCC approved operator assisted, station-collect rates. Inmate collect call rates must not exceed public telephone collect call rates. BPP will not ensure reasonable rates for inmate calling. The department is aware that rates inmate families pay for calls must be competitive. The

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CENTRAL OFFICE
P.O. BOX 7011
CARSON CITY, NEVADA 89702
PHONE (702) 887-3285
FAX (702) 687-6715

SOUTHERN OFFICE
2770 S. MARYLAND PARKWAY, NO. 312
LAS VEGAS, NEVADA 89158
PHONE (702) 486-6580
FAX (702) 486-6431

The Honorable Reed E. Hundt


July 25, 1994

-2-

department will only contract with inmate telephone service providers that charge reasonable and competitive rates. Inmate families will refuse to accept inmate calls if rates are not competitive. BPP will only confuse and frustrate inmates and their families as it is doubtful that most inmate families will be able to identify a preferred carrier. Further, competition among providers is great and any provider charging uncompetitive rates will not survive.

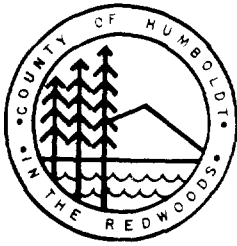
Enactment of BPP will reduce or eliminate our ability to control and manage inmate collect calls, record investigative information, generate information reports and retard fraud. Additionally, Inmate Welfare funds would be dramatically reduced resulting in diminished rehabilitative educational and recreational inmate activities.

Sincerely,


Karl L. Sannicks,
Acting Director

GMW:GP:bg

cc: The Honorable James H. Quello
The Honorable Andrew C. Barrett
The Honorable Rochelle B. Chong
The Honorable Susan Ness



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SHERIFF'S DEPARTMENT
COUNTY OF HUMBOLDT

826 FOURTH STREET
EUREKA, CALIFORNIA 95501 PHONE (707) 445-7505

July 26, 1994

The Honorable Reed E. Hundt
Federal Communications Commission
1919 M. Street, N.W. Room 222
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Subject: Public Comments
Billed Party Preference for O+ Inter LATA Calls
CC Docket No.92-77

Dear Commissioner Hundt:

As the Sheriff of Humboldt County, California and the Administrator of Humboldt County's Adult Detention Facility, I strongly urge the FCC to exclude local jails from the proposed "billed party preference" (B.P.P.) system for O+Inter LATA pay phone traffic rules.

As the Sheriff I am responsible for the expenditures made from the Inmate Welfare Fund (IWF). The revenue for this fund is primarily generated by commissions received from the collect call phones installed in the jail. The IWF is the only source of dollars now available to provide telephone services as well as other programs and services to inmates including Adult Education, GED Programs, library services, commissary and personal supplies for indigent inmates.

Many of these inmate programs and services are mandated by law, the courts, in particularly Federal Courts. Eliminating the commission revenues on inmate phones would force the county to tap an already strapped budget to fund these mandates. Further, the loss of revenue would most likely cause us to discontinue not only telephone service but all other IWF supported programs and services in the jail rather than provide it to the inmates at the tax payers expense.

I am also very concerned about what B.P.P. may mean to public safety and jail security. We recently entered into an agreement with a telephone company that is providing security hardware equipment for the installation of the jail phones, maintenance of the phones, an on-site personal computer that allows us to block calls to protect victims and witnesses from threats and intimidation, and protect family and friends from unwanted calls. The system also limits the possibility of fraud and allows for numerous internal jail security controls. These issues are critical to me and to the citizens of Humboldt County.

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Again, I strongly urge the FCC to consider the negative impact B.P.P. will have on local jail facilities in California and vote to exclude local jails from the B.P.P. proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "David A. Renner", written over a horizontal line.

DAVID A. RENNER, SHERIFF
HUMBOLDT COUNTY, CALIFORNIA

DAR/kk

CC: Vice President Al Gore
Senator Diane Feinstein
Senator Barbara Boxer
Congressman Dan Hamburg



Correctional Facility

297 South Century Avenue
St. Paul, MN 55119

DOCKET FILE COPY ORIGINAL

Tel: 612-298-5562
Fax: 612-298-5432

July 26, 1994

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The Honorable Reed E. Hundt, Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

AUG 12 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

RE: CC Docket No. 92-77 Opposition to Billed Party Preference

Dear Chairman Hundt:

We are opposed to the application of Billed Party Preference (BPP) at inmate facilities.

We have analyzed the security and administration needs at our facility and have found it to be necessary to route inmate calls from our facility to a single carrier that is equipped to handle inmate calls and with whom we have a contractual relationship. We cannot allow inmates to have open access to the telecommunications network and the freedom to use any carrier they please. BPP will take away our right to coordinate inmate calls through a carrier we know and trust. Instead, inmate calls will be routed to a number of different carriers, none of whom will have any obligation to us, and few that will be trained to handle inmate calls.

We have also found it necessary to install phone equipment that is specifically designed for inmate calls. This equipment helps prevent fraud, abusive calls, and other criminal activity over the telephone network. Our current contract with AT&T/Tele-matic has almost eliminated the harassing and threatening calls by inmates. Given the constant budgetary constraints that we are under, we cannot afford to provide this equipment with the help of inmate phone service providers. BPP would also eliminate the revenue stream that finances our inmate phones. If BPP is applied to inmate facilities, there will be no way for us to finance these phones, nor will there be inmate phone service providers to assist us. Without inmate phones, the morale of our inmates will be devastated. The resulting increase in tension will make it more difficult for our staff to manage inmates.

Furthermore, we are sensitive to the rates inmate families pay for calls. We fully appreciate the FCC's concern if some facilities do not take responsibility for protecting inmate families from abusive rates. We do not agree with the FCC that the solution for this lack of responsibility is BPP. The proper and more

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The Honorable Reed E. Hundt, Chairman

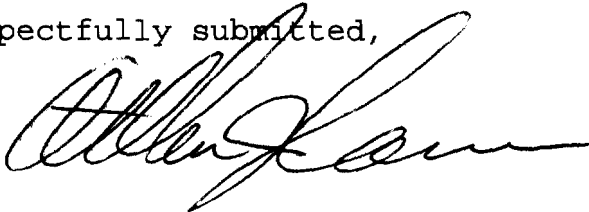
RE: CC Docket No. 92-77 Opposition to Billed Party Reference

Page Two

effective action would be to adopt rate ceilings on inmate calls and then let Correctional Officials/Sheriff's enforce these rate ceilings through their contracts. Indeed we believe the overwhelming majority of Corrections Officials/Sheriff's are committed to requiring rates that are fair and reasonable.

In short, BPP would take away our ability to employ important security and administrative measures that we have found to be necessary at our facility, ultimately reducing inmate phone availability, which in turn decreases the efficiency of our staff. We urge you to not adopt regulations that interfere with our administrative and security decisions -- decisions that are clearly within our discretion and which we have a public responsibility to make.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Arthur J. Cavara', written in a cursive style.

Arthur J. Cavara
Superintendent

cc: Honorable James H. Quelle
Honorable Rachelle B. Chong
Honorable Andrew C. Barrett
Honorable Susan Ness